S.B.CRIMINAL MISC. PETITION NO.27/2007

Date : 26.07.2007

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. Trilok Joshi for the petitioner.
Mr. M.K. Garg for respondent.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioner has prayed for modification of the order passed by the learned Additional Sessions Judge, Raisinghnagar, imposing the condition of depositing a sum of Rs.1,25,000/- while admitting the appeal on 21.08.2006.

Notice has been served on the respondent. With the consent of learned counsel for the parties, the matter is final decided.

It appears that in this case proceedings were drawn against the petitioner under Section 138 of the Negotiable Instrument Act and the trial court found case to be proved and passed judgment on 29.07.2006 convicting the petitioner and imposing fine to the extent of Rs.2,50,000/-. Against the aforesaid judgment, the petitioner filed an appeal before the learned

Appellate Court who vide its order dated 21.08.2006 levelled the condition that half of the amount should be deposited in the trial court.

Learned counsel for the petitioner contends that the amount of fine is to excessive and it may be reduced to 25 %. He has placed before me photstat copies of the orders passed by this Court in S.B. Criminal Misc. Petition No.324/2006 (Shanker Lal Vs. M/s. Mahesh Trading Company), S.B. Criminal Misc. Petition No.930/2005 (Kamruddein Vs. State of Raj.) and S.B. Criminal Misc. Petition No.567/2006 (Makhan Singh Vs. Durga Das).

Learned counsel for the respondent has opposed the submission made by learned counsel for the petitioner.

After having considered the submission made before me and taking into consideration the contents of the petition, I am of the opinion that in the facts and circumstances of the case the order passed by the learned Appellate Court is required to be modified.

Accordingly, the order impugned dated 21.08.2006 passed by the learned Appellate Court stands modified to the extent and it is directed that petitioner shall deposit a sum of Rs.70,000/- in the trial court instead of Rs.1,25,000/-. If the said amount is not deposited within one month's time, then, this order will be of no help to the petitioner.

With the aforesaid modification, the misc. petition stands disposed of.

(SATYA PRAKASH PATHAK), J.